

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CRIMINAL CASE NO. 1:16-cr-00147-MR-DLH**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CARL JACK HALL,

Defendant.

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ORDER

THIS MATTER is before the Court on the Defendant's Motion to Reconsider [Doc. 66].

I. PROCEDURAL BACKGROUND

On January 19, 2018, following a three-day trial, a jury found the Defendant guilty of Counts One and Two of the Bill of Indictment. [Doc. 55]. On March 14, 2018, a draft Presentence Report ("PSR") was completed in this matter. [Doc. 58]. On March 26, 2018, the Defendant's appointed trial counsel filed a motion to withdraw as counsel of record. [Doc. 59]. On March 28, 2018, the motion came on for hearing before the Honorable Dennis L. Howell, United States Magistrate Judge. [See Minute Entry dated March 28, 2018]. On April 2, 2018, the Judge Howell entered an order allowing Defendant's trial counsel to withdraw as counsel of record. [Doc. 60]. Judge

Howell further ordered Defendant's trial counsel to provide substitute counsel with all documents and materials related to Defendant's case. [Id. at 3]. On April 3, 2018, Defendant's present counsel was appointed as counsel of record. [See Docket Entry dated April 3, 2018]. On April 5, 2018, Defendant's counsel submitted a voucher application requesting authorization for transcriptions of the motion to withdraw hearing and the entirety of the trial proceedings at government expense. On April 19, 2018, the Defendant, through counsel, moved for an extension of the deadline to file objections to the PSR. [Doc. 63]. On April 24, 2018, the Court granted an extension of the deadline to file objections to the PSR but denied the request to obtain transcriptions at government expense. [Doc. 64]. On May 02, 2018, the Defendant, through counsel, filed objections to the draft PSR. [Doc. 65]. On May 11, 2018, the Defendant, through counsel, filed the present motion seeking reconsideration of the denial of the Defendant's request for a trial transcript at government expense.

II. ANALYSIS

An indigent defendant is entitled to a "transcript of a prior proceedings when that transcript is needed for an effective defense or appeal." Britt v. North Carolina, 404 U.S. 226, 227, (1971), see also 18 U.S.C. § 3006A. In determining whether a need has been shown, the Court should consider: "(1)

the value of the transcript to the defendant in connection with the appeal or trial for which it is sought, and (2) the availability of alternative devices that would fulfill the same functions as a transcript.” Britt, 404 U.S. at 227.

Applying these factors to the present case, the Court concludes that the Defendant is not entitled to a transcript of his trial at this time. Foremost, a trial transcript has not yet been prepared and the time necessary to transcribe the entire trial would significantly delay the Defendant’s sentencing. While the Defendant argues the trial transcript is necessary for sentencing, he does not identify any specific issues at sentencing that necessitate preparation of the entire trial transcript. Further, the Defendant himself was present at trial and thus may use his knowledge of those proceedings to assist counsel in preparing for sentencing. Moreover, the Defendant’s present counsel should have all of trial counsel’s documents and materials related to the Defendant’s case, including discovery produced by the Government, as well as the list of witnesses and exhibits presented at trial.

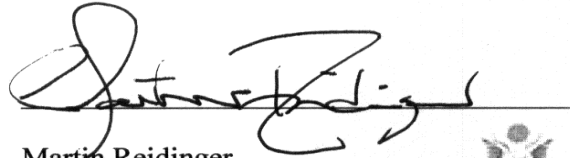
Considering the delay that preparation of the trial transcript would cause and the sufficient available alternatives thereto, the Court finds that production of the trial transcript would provide minimal value to the

Defendant and is not necessary at this stage of the proceedings. Accordingly, the Defendant's Motion for Reconsideration is denied.

IT IS, THEREFORE, ORDERED that the Defendant's Motion to Reconsider [Doc. 66] is **DENIED**.

IT IS SO ORDERED.

Signed: July 7, 2018


Martin Reidinger
United States District Judge

